

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

JOSEPH S. SWORD

§

VS.

§

CIVIL ACTION NO. 1:12cv66

TX. DEPT. Of CRIMINAL JUSTICE, ET AL. §

MEMORANDUM ORDER OVERRULING OBJECTIONS AND ADOPTING
THE MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION

Joseph Sword, an inmate confined within the Texas Department of Criminal Justice, Correctional Institutions Division, proceeding *pro se*, filed the above-styled civil rights lawsuit pursuant to 42 U.S.C. § 1983 against the Texas Department of Criminal Justice and Anthony Ortiz. The court referred this matter to the Honorable Zack Hawthorn, United States Magistrate Judge, at Beaumont, Texas, for consideration pursuant to applicable orders of this court.

The Magistrate Judge has submitted an Initial Report and Recommendation of United States Magistrate Judge concerning this matter. The Magistrate Judge recommends that the claim against the Texas Department of Criminal Justice be dismissed for lack of subject-matter jurisdiction.

The court has received and considered the Report and Recommendation of United States Magistrate Judge, along with the record and pleadings. Plaintiff filed objections to the Report and Recommendation.

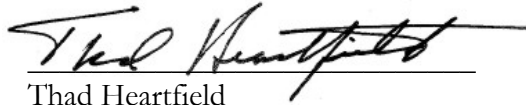
The court has conducted a *de novo* review of the objections. After careful consideration, the court concludes the objections are without merit. The Eleventh Amendment to the Constitution bars plaintiff's claim against the Texas Department of Criminal Justice.

ORDER

Accordingly, plaintiff's objections are **OVERRULED**. The findings of fact and conclusions of law of the Magistrate Judge are correct and the report of the Magistrate Judge is

ADOPTED. The claim against the Texas Department of Criminal Justice is **DISMISSED** without prejudice for lack of subject-matter jurisdiction.

SIGNED this the 12 day of **February, 2013.**

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield
United States District Judge